

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ORLANDO MARTIN,

Plaintiff, No. CIV S-05-0557 DFL JFM P

vs.

ALVARO C. TRAQUINA, et al.,

Defendants. ORDER

Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. By order filed July 15, 2005, the United States Marshal was directed to serve process on defendants in this action, including G. Toppenberg. On January 18, 2006, the United States Marshal returned service unexecuted on G. Toppenberg because said individual is deceased. In light of the suggestion of G. Toppenberg's death upon the record, the Clerk of the Court will be directed to serve a copy of the USM-285 form returned by the Marshal on plaintiff together with a copy of this order. Service of said form will invoke the ninety day time limit for filing a motion for substitution pursuant to Federal Rule of Civil Procedure 25(a)(1).

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1 Accordingly, IT IS HEREBY ORDERED that the Clerk of the Court shall serve  
2 on plaintiff forthwith a copy of the USM-285 form returned by the United States Marshal on  
3 January 18, 2006 together with this order.  
4 DATED: February 6, 2006.

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6 UNITED STATES MAGISTRATE JUDGE  
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